



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

May 3, 2011

Short Stop, LLC
1307 N Dolarway Rd
Ellensburg, WA 98926

Re: Notice of Non-Compliance with the Underground Storage Tank Regulations
Flying B 29, 1611 S Canyon Rd, Ellensburg, WA
UST Site # 10589
Facility/Site ID# 386

Dear Mr. Bains and Mr. Joshi:

Thank you for meeting with me during the scheduled underground storage tank (UST) compliance inspection last week. As we discussed, there is much to do to bring this facility into compliance. This Notice of Non-Compliance outlines the violations observed during the inspection and the course of action you must follow to prevent further enforcement actions. Additionally, a Notice of Penalty is being issued.

Pursuant to Chapter 90.76 Revised Code of Washington and Chapter 173-360 Washington Administrative Code (WAC), the Washington State Department of Ecology is required to regulate underground storage tanks and UST systems. On April 19, 2011, I completed a compliance inspection of the UST system located at 1611 S Canyon Rd, Ellensburg, WA. During the course of the inspection, the following violation(s) were found (inspector comments are in *italics*):

1. Failure to comply with financial responsibility requirements

Under WAC 173-360-400, all owners and operators of petroleum underground storage tanks must provide proof of financial responsibility. The insurance policy must be continually maintained.

Between September 18, 2010 and the end of February 2011, Short Stop LLC could not provide proof of financial responsibility for the USTs at Flying B 29.

2. Failure to comply with cathodic protection testing requirements.

Under WAC 173-360-320, cathodic protection systems shall be tested every three years, meet inspection criteria that are in accordance with a code of practice developed by a nationally recognized association, and have a checklist signed by a certified UST supervisor who performs these tank services.

On August 1, 2010, Kevin Wilkerson reportedly tested the cathodic protection systems at Flying B 29. The testing results were faxed to Ecology on October 15, 2010. Ecology determined that the checklist was not filled out correctly nor had it met the criteria for adequate cathodic protection testing. Mr. Bains and Mr. Wilkerson were notified of the unsatisfactory checklist on October 18 and 20, 2010, respectively. At the end of November 30, 2010, Mr. Wilkerson notified me that he would retest the cathodic protection systems soon.

On December 7, 2010, Ecology received cathodic protection surveys for galvanic and impressed current CP testing performed by Mr. Wilkerson. The impressed current CP survey checklist was still missing required information. On December 13, 2010, I sent Mr. Bains a letter describing what was required to be submitted in order for Ecology to accept the impressed current CP survey checklist. A copy of the letter is enclosed a. It included the following information.

- 1. Submit an impressed current evaluation checklist signed by Mr. Wilkerson. Without his signature, the checklist cannot be accepted.*
- 2. Submit an updated Section VIII with "DC Voltage on Rectifier Output Terminal" in both the As Found and As Left sections. These are required fields.*
- 3. Provide documentation regarding the date the rectifier tap settings were changed, including the name of the individual who adjusted them. As noted in Mr. Buchan's [Ecology's CP tester] review, the tap settings have been adjusted since a June 24, 2010 audit of the system.*

On several occasions, since February 1, 2011, I have reminded Mr. Bains, Mr. Joshi, or Mr. Wilkerson, that Ecology has yet to receive an acceptable impressed current CP survey checklist. I have made it clear during each of these correspondences that Flying B 29 is out of compliance with CP testing requirements. On March 18, 2011, Mr. Joshi replied to one of my emails stating that he has "already talked to Kevin about the corrosion protection and he is working on that part". Since December 7, 2011, Ecology has not received any additional information about the results of impressed current CP testing at this facility.

On May 3, 2011, I issued Mr. Wilkerson a Notice of Non-Compliance for failure to comply with certification requirements specifically relating to his cathodic protection testing submittals.

3. Failure to properly monitor tanks for releases.

Until recently, the tanks at Flying B 29 were being monitored by daily manual inventory. This method has not been permitted since December 22, 2008. Under WAC 173-360-335(2), tanks must be monitored at least every thirty days using one of the following methods:

1. Automatic Tank Gauging
2. Statistical Inventory Reconciliation
3. Interstitial Monitoring – not applicable for this UST system
4. Vapor Monitoring
5. Groundwater Monitoring

In December 2009, Short Stop, LLC purchased Flying B 29. Since that time, Mr. Joshi has been sticking the tanks daily and recording product levels. Earlier this year, Colony Insurance required that Short Stop, LLC sign an SIR contract as part of the insurance policy renewal process. Short Stop, LLC prepaid SIR Phoenix for one year.

During the inspection, no SIR reports were available for review. Apparently, Mr. Joshi had not "released" the data he had entered on SIR Phoenix's website and the data had not been processed. Mr. Joshi and I spoke with Walt Morgan (SIR Phoenix) during the inspection and the data was processed the next day. The four "operational" tanks/compartments passed the SIR leak test requirements for January, February and March 2011.

Additionally, the 8,000-gallon diesel compartment contained three to four inches of product and has not been monitored for releases.

4. Failure to conduct annual line tightness testing.

Under WAC 173-360-350(2)(ii), pressurized lines must be tested annually.

Ecology has line tightness testing checklists for October 29, 2008 and July 1, 2010. Although there was a change of ownership during this time, seven months went by where Short Stop, LLC did not schedule this testing.

5. Failure to test automatic line leak detector annually.

Under WAC 173-360-350(3)(a), line leak detectors must be tested annually.

Ecology has line leak detector testing reports for October 29, 2008 and July 1, 2010. Although there was a change of ownership during this time, seven months went by without Short Stop owners scheduling this testing.

6. Failure to provide cathodic protection to steel piping.

Under WAC 173-360-310(3), all metal piping that routinely contains regulated substances and is in contact with the ground shall be cathodically protected.

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During the inspection on April 19, 2011, I noted steel piping as part of the UST system at Flying B 29. Steel piping was not included in the CP testing performed by Mr. Wilkerson.

To bring your facility into compliance with the UST regulations and to meet the requirements of this Notice of Non-Compliance, you must complete the following actions by the deadline provided.

1. **Immediately**, pump all product from the 8,000-gallon diesel compartment so that no more than one inch of product remains in the tank. As soon as you have done this, notify me so that an Ecology inspector can verify the depth of product in the tank.
2. **Immediately**, begin monitoring tanks monthly for releases as described in the enclosed document, *Introduction to Statistical Inventory Reconciliation*. You are required to submit data to SIR Phoenix on a monthly basis and review the SIR report when it is returned to you. Anything other than a "pass" requires attention, as indicated in the SIR manual.
3. **By May 13, 2011**, complete the following actions:
 - a. Submit an impressed current evaluation checklist signed by Mr. Wilkerson. Without his signature, the checklist cannot be accepted.
 - b. Submit an updated Section VIII with "DC Voltage on Rectifier Output Terminal" in both the As Found and As Left sections. These are required fields.
 - c. Provide documentation regarding the date the rectifier tap settings were changed, including the name of the individual who adjusted them. As noted in Mr. Buchan's [Ecology's CP tester] review, the tap settings have been adjusted since a June 24, 2010 audit of the system.
4. **By May 31, 2011**, have a certified UST CP tester verify that steel piping at the facility is protected from corrosion. The black pipe wrap tape is not an acceptable corrosion protection material. If a cathodic protection system is used to protect the piping from corrosion, a retrofit/repair checklist and CP survey checklist must be filled out completely and signed by the UST supervisor. The checklists must be submitted to Ecology.

Immediately following each action listed above, please submit the documents required above to the following address:

Dept. of Ecology
Attn: Krystal Rodriguez
15 W Yakima Ave, Suite 200
Yakima, WA 98902

Additionally, Notice of Penalty, Docket No. 8492 (Penalty # UST 10589) is being issued in the amount of \$1200.00 for the following:

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1. WAC 173-360-335(2): Failure to comply with release detection requirements - \$200
2. WAC 173-360-400: Failure to comply with financial responsibility requirements - \$400
3. WAC 173-360-320 and 310: Failure to comply with corrosion protection requirements - \$600

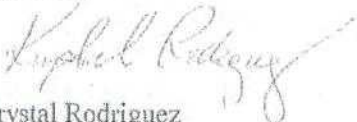
Failure to comply with these requirements may result in administrative order and/or penalties of up to \$5,000.00 per violation per day of non-compliance.

For your reference, I have enclosed a few helpful documents.

- *Operating and Maintaining Underground Storage Tank Systems* – This informational EPA document outlines the requirements for operating and maintaining UST systems. I have highlighted sections relevant to your UST systems but I suggest you do not limit your reading to these sections. Also, throughout the EPA document it states they must be retained for just one year. Please note, however, that Ecology requires records be retained for five years.
- *Underground Storage Tank regulations* – These are the regulations that you must adhere to when operating an underground storage tank system.
- *Introduction to Statistical Inventory Reconciliation* – This is a short document that explains clearly how to collect information for SIR and how to interpret the results you receive each month.

If you have any questions regarding this letter or the enclosed documents, please feel free to contact me at (509) 454-7290 or krod461@ecy.wa.gov.

Sincerely,



Krystal Rodriguez
Underground Storage Tank Inspector
Toxics Cleanup Program

Encl: Notice of Penalty, Docket No. 8492 (# UST 10589)
Operating and Maintaining Underground Storage Tank Systems
Underground Storage Tank regulations
Introduction to Statistical Inventory Reconciliation
Copy of December 13, 2011 letter to Short Stop, LLC

By Certified Mail: 7007 2560 001 7676 0992

cc: Penalty Desk, Fiscal Office